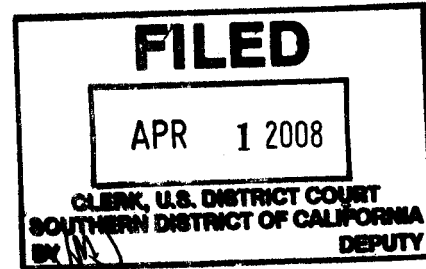


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NO. 3926 P. 9

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 6
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 7 UNITED STATES OF AMERICA



8
 9 UNITED STATES DISTRICT COURT
 10 SOUTHERN DISTRICT OF CALIFORNIA

11 UNITED STATES OF AMERICA,

12 Plaintiff,

13 v.

14 ADALBERTO JACOBO (1),

15 Defendant.

Magistrate Case No. 08MJ0839

08CR 963-DMS
**STIPULATION OF FACT AND JOINT
 MOTION FOR RELEASE OF
 MATERIAL WITNESS(ES) AND
 ORDER THEREON**

(Pre-Indictment Fast-Track Program)

17 **IT IS HEREBY STIPULATED AND AGREED** between the plaintiff, UNITED STATES
 18 OF AMERICA, by and through its counsel, Karen P. Hewitt, United States Attorney, and W. Mark
 19 Conover, Assistant United States Attorney, and defendant ADALBERTO JACOBO, by and through
 20 and with the advice and consent of Michael E. Burke, counsel for defendant, that:

21 1. Defendant agrees to execute this stipulation on or before the first preliminary hearing
 22 date and to participate in a full and complete inquiry by the Court into whether defendant knowingly,
 23 intelligently and voluntarily entered into it. Defendant agrees further to waive indictment and plead
 24 guilty to the pre-indictment information charging defendant with a non-mandatory minimum count
 25 of Transportation of Aliens and Aiding and Abetting, in violation of 8 U.S.C. §1324(a)(1)(A)(ii)
 26 and (v)(II).

27 //

28 WMC:mg:3/19/08

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NO. 3926 P. 10

1 2. Defendant acknowledges receipt of a plea agreement in this case and agrees to
2 provide the signed, original plea agreement to the Government not later than five business days
3 before the disposition date set by the Court.

4 3. Defendant agrees to plead guilty to the charge pursuant to the plea agreement on or
5 before April 16, 2008.

6 4. The material witnesses, Pablo Ibarra-Ramirez, Aquileo Ruiz-Flores, and Pedro
7 Contreras-Lopez, in this case:

8 a. Are aliens with no lawful right to enter or remain in the United States;

9 b. Entered or attempted to enter the United States illegally on or about
10 March 13, 2008;

11 c. Were found in a vehicle driven by defendant in or near Lake Elsinore,
12 California and that defendant knew or acted in reckless disregard of the fact that they were aliens
13 with no lawful right to enter or remain in the United States;

14 d. Were paying or having others pay on their behalf \$1,500 - \$2,000 to
15 codefendant or to others to be brought into the United States illegally and/or transported illegally to
16 their destination therein; and,

17 e. May be released and remanded immediately to the Department of Homeland
18 Security for return to their country of origin.

19 5. After the material witnesses are ordered released by the Court pursuant to this
20 stipulation and joint motion, if defendant does not plead guilty to the charge set forth above, for any
21 reason, or thereafter withdraws his guilty plea to that charge, defendant agrees that in any proceeding,
22 including, but not limited to, motion hearings, trial, sentencing, appeal or collateral attack, that:

23 a. The stipulated facts set forth in paragraph 4 above shall be admitted as
24 substantive evidence;

25 b. The United States may elicit hearsay testimony from arresting agents
26 regarding any statements made by the material witness(es) provided in discovery, and such testimony

27 //

28 Stipulation of Fact and Joint Motion for Release of
Material Witness(es) And Order Thereon in
United States v. ADALBERTO JACOBO (1)

MAR. 19. 2008 4:19PM

NO. 3926 P. 11

1 shall be admitted as substantive evidence under Fed. R. Evid. 804(b)(3) as statements against interest
2 of (an) unavailable witness(es); and,

3 c. Understanding that under Crawford v. Washington, 124 S. Ct. 1354 (2004),
4 "testimonial" hearsay statements are not admissible against a defendant unless defendant confronted
5 and cross-examined the witness(es) who made the "testimonial" hearsay statements, defendant
6 waives the right to confront and cross-examine the material witness(es) in this case.

7 6. By signing this stipulation and joint motion, defendant certifies that defendant has
8 read it (or that it has been read to defendant in defendant's native language). Defendant certifies
9 further that defendant has discussed the terms of this stipulation and joint motion with defense
10 counsel and fully understands its meaning and effect.

11 Based on the foregoing, the parties jointly move the stipulation into evidence and for the
12 immediate release and remand of the above-named material witness(es) to the Department of
13 Homeland Security for return to their country of origin.

14 It is STIPULATED AND AGREED this date.

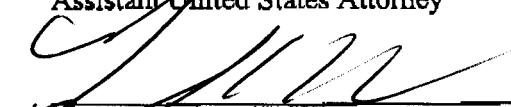
15 Respectfully submitted,

16 KAREN P. HEWITT
United States Attorney

17
18 Dated: 4/1/08

19 
W. MARK CONOVER
Assistant United States Attorney

20 Dated: 3/31/08

21 
MICHAEL E. BURKE
Defense Counsel for Adalberto Jacobo

22
23 Dated: 3/31/08

24 
ADALBERTO JACOBO
Defendant

25
26
27
28 Stipulation of Fact and Joint Motion for Release of
Material Witness(es) And Order Thereon in
United States v. ADALBERTO JACOBO (1)

ORDER

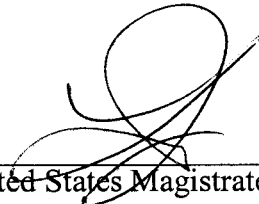
Upon joint application and motion of the parties, and for good cause shown,

THE STIPULATION is admitted into evidence, and,

IT IS ORDERED that the above-named material witness(es) be released and remanded forthwith to the Department of Homeland Security for return to their country of origin.

SO ORDERED.

Dated: 4/1/08.



United States Magistrate Judge